

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

Darrell Kluge,

Plaintiff,

Civil Action No. 09-CV-1763 DWF/JJG

v.

Internal Revenue Service,

AMENDED COMPLAINT

Defendant.

COMES NOW the Plaintiff, and for his claim for relief against the Defendant states and avers:

THE PARTIES

1. Plaintiff, Darrell Kluge is an individual with legal residence now at 18201 Ixonia Ave, Lakeville, MN, Minnesota 55345.

2. This civil action arises under 5 U.S.C. §552 and 5 U.S.C §552a. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1346, and venue is proper in this district pursuant to 28 U.S.C. §1402.

3. Plaintiff is a person and Defendant Internal Revenue Service is an agency of the United States of America, within the meaning of the Freedom of Information Act, the Privacy Act, and the Administrative Procedure Act.

THE CLAIMS FOR RELIEF

4. Pursuant to the Freedom of Information Act, 5 U.S.C. §552, and the Privacy Act, 5 U.S.C. §552a, on May 21, 2009, Plaintiff properly filed a request for disclosure of information contained in administrative and investigative files pertaining to

his 2003 through 2008 federal income taxes, including but not limited to all tax returns, revenue agent's workpapers, transmittal slips, revenue agents reports, case activity workpapers, and any files, records, correspondence, memoranda, or other documents regarding any proposals, recommendations, referrals, or other actions or suggested actions relating to the examination or investigation of this 2003 through 2008 federal income tax returns. A copy of the request is attached as Exhibit 1.

5. On June 24, 2009, Defendant notified Plaintiff's counsel of the unavailability of a response in the attached letter (Exhibit 2).

6. Subsequently, on July 17, 2009, Defendant furnished only 687 of 1,883 pages in response to Plaintiff's request. A copy of Defendant's response is set forth as Ex. 3.

7. Defendant's failure to articulate any factual basis for denying Plaintiff's request violates the Freedom of Information Act, as amended.

8. Defendant's failure to disclose 28 pages in part and 1,196 pages in full of the contents of plaintiffs' 2003 through 2008 income tax administrative and investigative files is not privileged or exempted from disclosure and violates the Freedom of Information Act, as amended. Defendant has asserted various exemptions from disclosure without basis in fact.

9. Plaintiff is entitled to complete disclosure of the 2003 through 2008 federal income tax administrative and investigative files pursuant to the Privacy Act and Freedom of Information Act, as amended.

10. Plaintiff is entitled to reasonable attorney's fees and costs of maintaining this action pursuant to 5 U.S.C. §552(a)(4)(E).

WHEREFORE, plaintiff prays for judgment and for an order as follows:

A. That Defendant and its officers, employees and representatives disclose to plaintiff of each and every document heretofore withheld from plaintiff which were requested by plaintiff from his 2003 through 2008 federal income tax administrative and investigative files.

B. That Defendant pays plaintiff's reasonable attorney's fees and litigation costs pursuant to 5 U.S.C. §552(a)(4)(E).

C. For such other and further relief as may be just and equitable in the circumstances.

Foster & Brever, PLLC

Dated: 7/23/09

BY: 

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